REMARKS

By this amendment, claims 1, 3-7, 11, 12 and 14 have been amended. Claim 2 has been canceled. Claim 15 has been added.

Claims 1 and 3-15 are currently pending in the application. Reconsideration and allowance of all of the claims is respectfully requested in view of the foregoing amendments and the following remarks.

In regard to Rejection of Claims 1-14 Under 35 USC § 112, first paragraph

The Examiner has rejected claims 1-14 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Examiner considers that the recitation "said resilient heat sink material being moveably positioned adjacent an inner surface of at least one of said walls" is not supported in the disclosure.

The Applicants believe the Examiner's rejection has been addressed and overcome by the present amendment.

In response to the Examiner's remarks, claims 1 and 14 have been amended to delete the term "moveably".

Claim 1 has additionally been amended to incorporate therein all of the features of claim 2. Claim 2 has been canceled in consequence of the amendment to claim 1, and the Examiner's rejection is therefore moot with respect thereto.

Claims 3-7, 11 and 12 have been amended to be consistent with the amendments made to claim 1.

Claim 1 as amended now recites "a film adapted to ease relative movement between said elastomeric heat sink material and said at least one of said walls". As such, the relative movement between the elastomeric heat sink material and the at least one of the walls recited in claim 1 as amended is believed to be enabled.

As such, claims 1 and 3-14 are believed to be in full compliance with 35 U.S.C. § 112, and the Examiner is requested to withdraw his rejection.

In regard to Rejection of Claims 1-3 and 11 Under 35 USC § 102(e) over Shimamura

The Examiner has rejected claims 1-3 and 11 under 35 U.S.C. § 102(e), as being anticipated by Shimamura et al., United States Patent No. 7,008,720. The Applicants believe that this rejection has been addressed and overcome by the present amendment.

In response to the Examiner's remarks, claim 1 has been amended to incorporate therein all of the features of claim 2.

Claim 2 has been canceled in consequence of the amendment to claim 1, and the Examiner's rejection is therefore moot with respect thereto.

The Examiner attention is drawn to the following feature of claim 1 as amended:

> said film adapted to ease relative movement between said elastomeric heat sink material and said at least one of said walls.

The Applicants submit that at least the above feature of claim 1 as amended is not taught by Shimamura.

As the Applicants stated in their communication dated February 26, 2007, Shimamura does not teach a film adapted to ease relative movement between two components. The Applicants' remarks filed on February 26, 2007 are reproduced below for the Examiner's ease of reference.

Referring to lines 62-66 of column 7 of Shimamura, Shimamura teaches a battery having an hermetically sealed sheath 3 enclosing a series of positive electrodes plates 4, separators 7 and negative electrode plates 6. Referring now to lines 3-9 of column 3 of Shimamura, the positive electrode terminal lead 8 and negative electrode terminal lead 9 of Shimamura are held between the thermally welded portions to be exposed to the outside of the outer sheath. Referring now to lines 38-47 of column 11 of Shimamura,

> even when the temperature of the electrode terminal lead 9 and the internal pressure of the battery increase, it is possible to prevent separation and gap from occurring between the polymer material 3c, forming the battery innermost layer of the outer sheath 3, and the surface covering layer 9b at the

> thermally welded portion 2. As a consequence, it is possible to remarkably improve the sealing property at the area of the electrode terminal lead 9 in contact with the thermally welded portion 2 of the outer sheath 3.

It is apparent that Shimamura does not teach that the terminal lead 9 is moveable with respect to the outer sheath 3. Shimamura teaches high adhesiveness between the terminal lead 9 and sheath 3 to prevent separation and gap from occurring there between. Shimamura further teaches that the terminal lead 9 and the sheath 3 are joined by a thermal welding portion 2. Welding is known in the art not to permit relative movement. As such, the thermally welded portion 2 of Shimamura that joins the terminal lead 9 and the sheath 3 cannot be interpreted as a film adapted to ease relative movement between an elastomeric heat sink material and at least one wall.

Therefore, at least one feature of claim 1 as amended is not taught by Shimamura, and the Examiner is requested to withdraw his rejection of claim 1 and claims 3 and 11 depending therefrom.

<u>In regard to Rejection of Claims 1-3 and 11 Under 35 USC § 102(e) over Ishida</u>

The Examiner has rejected claims 1-3 and 11 under 35 U.S.C. § 102(e), as being anticipated by Ishida et al., United States Patent Application Publication No. 2003/0134190. The Applicants believe that this rejection has been addressed and overcome by the present amendment.

In response to the Examiner's remarks, claim 1 has been amended to incorporate therein all of the features of claim 2.

Claim 2 has been canceled in consequence of the amendment to claim 1, and the Examiner's rejection is therefore moot with respect thereto.

The Examiner attention is drawn to the following feature of claim 1 as amended:

> said film adapted to ease relative movement between said elastomeric heat sink material and said at least one of said walls.

The Applicants submit that at least the above feature of claim 1 as amended is not taught by Ishida.

Referring to paragraph 7 of the Examiner's rejection, the Examiner considers the thermal fuse (PTC device) 112 of Ishida to be a heat sink. Without admitting that the thermal fuse 112 of Ishida can be considered a heat sink, the Applicants submit that the thermal fuse 112 cannot be considered an "elastomeric heat sink material" as claimed.

Referring to paragraph [0120] of Ishida,

> an overcurrent breaking device is connected to a circuit of equipment in which the battery is installed. As the overcurrent breaking device, a thermal fuse or a device (hereinafter, referred to as "PTC devices") having a positive temperature resistance coefficient is preferably used, for example. Because its resistance increases with an increase in temperature, the PTC device serves to break or reduce a current at elevated temperatures.

Ishida makes no mention of the construction or physical properties of the thermal fuse 112. By extension, Ishida does not teach that the thermal fuse 112 comprises an elastomeric heat sink material. As such, Ishida does not teach an elastomeric heat sink material or any properties thereof. Therefore, Ishida does not teach a film adapted to ease relative movement between an elastomeric heat sink material and at least one wall.

Therefore, at least one feature of claim 1 as amended is not taught by Ishida, and the Examiner is requested to withdraw his rejection of claim 1 and claims 3 and 11 depending therefrom.

<u>In regard to Rejection of Claims 4-6 Under 35 USC § 103(a)</u>

The Examiner has rejected claims 4-6 under 35 U.S.C. § 103(a), as being unpatentable over Shimamura.

The Examiner's attention is directed to the following feature of claim 1 as amended:

> said film adapted to ease relative movement between said elastomeric heat sink material and said at least one of said walls.

As discussed above with respect to the rejection of claims 1-3 and 11 over Shimamura, the above feature of claim 1 as amended is not taught by Shimamura.

This deficiency in Shimamura is not remedied by the Examiner's assertion that "the claimed configuration is a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed electrochemical generator is significant", without admitting the correctness of the Examiner's assertion and reserving the right to argue thereagainst in the future.

Therefore, at least one feature of claim 1 as amended is not taught by Shimamura or the Examiner's assertion, alone or in combination, without admitting the correctness of the Examiner's assertion. As such, the Examiner is requested to withdraw his rejection of claims 4-6 depending from claim 1.

In regard to Rejections of Claims 7-10 and 14 Under 35 USC § 103(a)

The Examiner has rejected claims 7-10 and 14 under 35 U.S.C. § 103(a), as being unpatentable over Shimamura in view of Wessman, United States Patent No. 6,705,418.

The Examiner has additionally rejected claims 7-10 and 14 under 35 U.S.C. § 103(a), as being unpatentable over Ishida in view of Wessman.

The Applicants believe that both of these rejections have been addressed and overcome by the present amendments.

The Examiner's attention is directed to the following feature of claim 1 as amended:

> said film adapted to ease relative movement between said elastomeric heat sink material and said at least one of said walls.

The Examiner's attention is additionally directed to the following feature of claim 14 as amended:

said film adapted to ease relative movement between said elastomeric heat sink pads and said at least one of said walls

As discussed above with respect to the rejections of claims 1-3 and 11 over Shimamura and Ishida respectively, the above features of claims 1 and 14 as amended are not taught by Shimamura or by Ishida.

The respective deficiencies in Shimamura and Ishida are not remedied by Wessman, without admitting that Wessman can be combined with either of Shimamura or Ishida, and reserving the right to argue thereagainst in the future.

Wessman teaches an arrangement for providing a compact battery with autonomous cooling (title). Referring to lines 8-12 of column 12 of Wessman, Wessman discloses a thermally radiative cap 443 in fluid communication with one or more of the cooling channels 442 which is filled with a cooling fluid 445 that circulates between the cap 443 and the channels 442 to cool the battery cells 412. Wessman makes no mention of either an elastomeric heat sink material or a thermally conductive structural housing, and by extension does not teach a film adapted to ease relative movement between an elastomeric heat sink material and at least one wall of a thermally conductive structural housing.

Therefore, at least one feature of claims 1 and 14 as amended is not taught by Shimamura and Wessman, alone or in combination, or by Ishida and Wessman, alone or in combination, without admitting that Wessman can be combined with either of Shimamura or Ishida. As such, the Examiner is requested to withdraw his rejections of claim 14 and claims 7-10 depending from claim 1.

In regard to Objection to claims 12 and 13

The Examiner has objected to claims 12 and 13 as being dependent upon a rejected base claim, but has indicated that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In view of the allowability of claim 1 as discussed above, the Examiner is requested to withdraw his objection to claims 12 and 13 depending therefrom.

Miscellaneous amendments

By the present amendment, claim 15 has been added. Claim 15 is believed to be supported by paragraph [0041] of the specification as originally filed.

Claim 15 is believed to be allowable by virtue of its dependency from claim 1, as well as for the additional features recited therein.

In view of the above remarks, the Applicants respectfully submit that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, the Office was authorized to charge the fees believed to be necessary to a credit card. In case of any under- or over-payment or should any additional fee be otherwise necessary, the Office is hereby authorized to credit or debit (as the case may be) Deposit Account number 502977.

Respectfully submitted,

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